

1
2 UNITED STATES
3 ENVIRONMENTAL PROTECTION AGENCY
4 REGION 9

5 In the Matter of:)

6 PACIFIC INTERMEDIATES CHEMICAL PLANT)
7 VENTURA, CALIFORNIA)

8 BENJAMIN ADAMS, PACIFIC INTERMEDIATES,)
9 VIRGINIA E. BEMER, DARRYL S. RISNER AND)
10 J. R. INDUSTRIES)
11 Respondents)

Order No. 89-08

12 Proceeding under Section 106 of the)
13 Comprehensive Environmental Response,)
14 Compensation and Liability Act of 1980,)
15 as amended by the Superfund Amendments)
16 and Reauthorization Act of 1986)
17 (42 U.S.C. § 9606))

18
19 I. Jurisdiction

20 This Order is issued to Benjamin Adams, Pacific Inter-
21 mediates, Virginia E. Bemer, Darryl S. Risner and J. R. In-
22 dustries (Respondents) pursuant to Section 106(a) of the Com-
23 prehensive Environmental Response, Compensation and Liability Act
24 of 1980 (CERCLA), 42 U.S.C. § 9606 (a), as amended by the Super-
25 fund Amendments and Reauthorization Act of 1986 (SARA), Pub. L.
26 No. 99-499, by authority delegated to the undersigned by the Ad-
27 ministrator of the United States Environmental Protection Agency
28 (EPA), and redelegated to the EPA Regions. Respondents Benjamin
Adams and Pacific Intermediates are hereinafter referred to
jointly and/or severally as "Pacific Intermediates." Respondents
Virginia E. Bemer, Darryl S. Risner, and J. R. Industries are
hereinafter referred to jointly and/or severally as "J. R.
Industries."

1 The Director of the Hazardous Waste Management Division, EPA
2 Region IX, has determined that there is an imminent and substan-
3 tial endangerment to public health and welfare and the environ-
4 ment because of an actual or threatened release of hazardous sub-
5 stances, as defined in CERCLA § 101 (14), 42 U.S.C. § 9601 (14),
6 from the Pacific Intermediates chemical plant in Ventura,
7 California (the "Facility"). This Order directs the aforemen-
8 tioned Respondents to undertake actions to protect the public and
9 the environment from this endangerment.

10 II. Findings of Fact

11 A. BACKGROUND

12 1. The Facility is located at 11019 Jacinto Way, Ventura,
13 California in the unincorporated Saticoy area, 10 miles east of
14 Ventura and 60 miles northwest of Los Angeles. The Facility's
15 operations include chemical preparation and chemical blending.

16 2. Respondent Pacific Intermediates, of which Respondent
17 Benjamin Adams is the sole proprietor, owns and operates the
18 Facility at 11019 Jacinto Way, Ventura, California. The real
19 property is owned by Respondent J. R. Industries, of which
20 Respondents Virginia E. Bemer and Darryl S. Risner are the prin-
21 cipal shareholders.

22 3. The Facility is located in an unincorporated area of
23 mixed commercial and residential uses. State Route 118 is in
24 proximity to the Facility.

25 4. Pacific Intermediates has been under investigation by
26 the Ventura County Environmental Health Department and the Dis-
27 trict Attorney's office for illegal movement and storage of haz-
28 ardous materials.

1 5. Pacific Intermediates obtained a RCRA generator iden-
2 tification number, CAL000005638. However, no manifested waste
3 loads are known by EPA to have left the Facility. A Ventura
4 County Hazardous Waste Permit is also on file.

5 6. On Monday April 10, 1989, a chemical fire was reported
6 at the Facility. The fire was allowed to burn for 11 hours due
7 to reports of water reactive chemicals in the Facility.
8 Perimeter dikes were constructed around parts of the building to
9 contain run-off of hazardous substances from the structure. The
10 fire heavily damaged the Facility and two other businesses. The
11 Ventura County Environmental Health Department advised the
12 California Office of Emergency Services of potential hazardous
13 materials releases due to run-off from a broken water line. The
14 Office of Emergency Services immediately forwarded the informa-
15 tion to the EPA. The Department of Health Services funded the
16 immediate action through the Emergency Reserve account and re-
17 quested that the EPA continue the removal with Federal funds.

18 7. The EPA has designated an On-Scene Coordinator for the
19 Facility, pursuant to 40 C.F.R. Part 300.

20 B. ENDANGERMENT

21 8. At the Facility, approximately 30 55 gallon drums were
22 distended, partially burned, deformed, cracked, or otherwise
23 damaged by the fire. Approximately 100 five gallon containers,
24 and twenty compressed gas cylinders were damaged and strewn
25 throughout the burned area.

26 9. According to Respondent Benjamin Adams, various chemi-
27 cals, such as solvents, inorganic and organic compounds, surfac-
28 tants, water reactives and compressed gases were used on the

1 premises. Specific compounds included chloro-sulfonic acid, for-
2 mamide, metallic sodium and lithium, dimethyl amine, pyridine,
3 methanol, and acetone.

4 (a) Dimethyl amine is a dangerous fire hazard that reacts
5 violently with oxidizing materials and emits toxic fumes when
6 heated.

7 (b) Pyridine is toxic by inhalation, violently reacts with
8 chloro-sulfonic acid, and is a dangerous fire and explosion
9 hazard.

10 (c) Inorganics present at the Facility, held in 25 pound
11 fiber kegs or bags, include sodium bisulfite, sodium tripolyphos-
12 phate, sodium bicarbonate, sodium hydroxide and miscellaneous
13 surfactants. Sodium bisulfate, sodium tripolyphosphate and
14 sodium hydroxide all emit toxic fumes when heated, and are cor-
15 rosive to body tissue.

16 (d) There are seven 215 cubic foot compressed gas cylinders
17 which contain hydrogen or nitrogen and twelve "lecture"
18 cylinders. According to Respondent Benjamin Adams, three of the
19 lecture cylinders contained dimethylamine, one contained hydrogen
20 bromide and one contained phosgene. Five of the lecture
21 cylinders, including the phosgene cylinder, ruptured during the
22 fire. Phosgene is listed as an EPA extremely hazardous substance
23 which is poisonous upon inhalation, is reactive with isopropyl
24 alcohol, and emits toxic or corrosive fumes upon contact with
25 water.

26 (e) There are several water reactive compounds in 55 gallon
27 drums including metallic lithium and sodium and chloro-sulfonic
28 acid. Chloro-sulfonic acid and lithium both emit toxic fumes

1 upon heating. All three of these compounds react violently with
2 water which can result in explosion and emission of toxic fumes.

3 (f) Approximately 45,000 gallons of contaminated run-off
4 water from a broken water line are contained on site in Baker
5 tanks.

6 10. Due to the condition of the drums, cylinders and con-
7 tainers, there is a substantial risk of further releases of haz-
8 ardous chemicals. The fire-damaged containers pose a major
9 threat of leakage of chemicals. Substantial damage to the build-
10 ing caused by the fire is a concern because failure of a struc-
11 ture could damage chemical containers, causing a sudden release
12 of toxic fumes and possible chemical reactions, fires and/or ex-
13 plosions. Incompatible materials sitting in damaged containers
14 and in proximity to each other pose special risks of fire, explo-
15 sion, and releases of corrosive and/or toxic gases. Shortly
16 after EPA assumed responsibility for this cleanup action, the un-
17 stable condition of the sodium was demonstrated when it spon-
18 taneously reacted. Additionally, several minor fires have spon-
19 taneously occurred during the EPA site stabilization activities.

20 11. The population at risk includes persons working at the
21 nearby businesses and people in the neighboring residences. They
22 would be endangered in the event of further fires, explosions,
23 chemical reactions, and/or release of toxic fumes or of the con-
24 taminated run-off water.

25 III. Conclusions of Law

26 1. Respondents are "persons" as defined in Section 101(21)
27 of CERCLA, 42 U.S.C. § 9601(21).

28 2. The Pacific Intermediates Facility, located at 11019

1 Jacinto Way, in Ventura, California is a "Facility" as defined in
2 Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

3 3. The solvents, inorganic and organic compounds, water
4 reactives and compressed gases at the Facility, including
5 dimethyl amine, pyridine, phosgene, metallic lithium, and
6 chloro-sulfonic acid, are "hazardous substances" as defined in
7 Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

8 4. The presence of hazardous substances at the Facility and
9 the potential for those substances to react, ignite or leak, con-
10 stitutes a "release" or "threatened release" of hazardous sub-
11 stances into the environment as defined in Section 101(22) of
12 CERCLA, 42 U.S.C. § 9601(22).

13 5. Respondents are "responsible parties" as defined in Sec-
14 tion 107(a) of CERCLA, 42 U.S.C. § 9607(a).

15 IV. Determinations

16 Based upon the foregoing Findings of Fact and Conclusions of
17 Law, the Director, Hazardous Waste Management Division, EPA
18 Region IX, has made the following determinations:

19 1. The release or threatened release of hazardous sub-
20 stances and pollutants or contaminants from the Facility presents
21 an imminent and substantial endangerment to public health or wel-
22 fare or the environment.

23 2. In order to prevent or mitigate immediate and sig-
24 nificant risk of harm to human health and the environment, it is
25 necessary that actions be taken immediately to contain and
26 prevent the release and threatened release of hazardous sub-
27 stances, pollutants or contaminants from the Facility.

28 3. The measures required by this Order are consistent with

1 3. The measures required by this Order are consistent with
2 the National Contingency Plan, 40 C.F.R. Part 300.

3 V. Work To Be Performed

4 Based upon the foregoing Findings of Fact, Conclusions of
5 Law and Determinations, EPA hereby orders the Respondents to un-
6 dertake the following measures under the direction of EPA's On-
7 Scene Coordinator:

8 1. Within seven (7) calendar days of the effective date of
9 this Order, Respondents shall submit to the EPA a written site
10 mitigation proposal for response activities to be conducted at
11 the Facility. Such response activities shall be conducted in a
12 safe and responsible manner, and in accordance with state and
13 federal law, including the National Contingency Plan, 40 C.F.R.
14 Part 300, and RCRA, 42 U.S.C. § 6901, et seq., and regulations
15 promulgated thereunder, and the Occupational Health and Safety
16 Administration regulations in Title 29 of the Code of Federal
17 Regulations. At a minimum, the site mitigation proposal shall
18 include:

19 (a) A site safety plan to protect on-site workers and the
20 surrounding community;

21 (b) Provisions for soil and Facility septic system sampling
22 to determine the extent and magnitude of on- and off-site con-
23 tamination;

24 (c) Procedures for preparation of all hazardous materials
25 for appropriate transportation, treatment, storage and/or dis-
26 posal;

27 (d) Procedures for transportation, treatment, storage
28 and/or disposal of all hazardous materials from the Facility;

1 measures set forth in the proposal; and

2 (f) Procedures for coordinating response activities among
3 the Respondents.

4 2. The EPA On-Scene Coordinator (OSC) shall evaluate the
5 proposal to ensure consistency with the National Contingency
6 Plan, 40 C.F.R. Part 300. Within two (2) days of EPA approval of
7 a site mitigation plan, Respondents shall begin implementation of
8 the plan. Each Respondent shall fully implement the plan as ap-
9 proved by EPA within the time period set forth in the schedule,
10 and shall fully cooperate with each other in carrying out any and
11 all activities required pursuant to this Order.

12 3. The OSC will determine the sufficiency of all response
13 activities and will determine when the site mitigation action has
14 been completed. Upon completion, Respondents shall submit a
15 report to the OSC detailing all activities performed pursuant to
16 this Order.

17 VI. Compliance With Other Laws

18 Respondents shall comply with all federal, state and local
19 laws and regulations in carrying out the terms of this Order.
20 Respondents shall also obtain all required state and local per-
21 mits. All hazardous substances/wastes removed from the Facility
22 must be handled in accordance with the Resource Conservation and
23 Recovery Act of 1976, 42 U.S.C. § 6921, et seq., and Section
24 121(d)(3) of CERCLA, 42 U.S.C. Section 9621(d)(3), and all
25 regulations promulgated thereunder.

26 VII. On-Scene Coordinator

27 EPA has appointed an On-Scene Coordinator for the Site who
28 has the authority vested in the On-Scene Coordinator by 40 C.F.R.

1 has the authority vested in the On-Scene Coordinator by 40 C.F.R.
2 Part 300, et seq. The On-Scene Coordinator for the site for the
3 purposes of this Order is:

4 Chris Weden
5 United States Environmental Protection Agency, Region IX
6 215 Fremont Street
San Francisco, California 94105
(415) 974-8132

VIII. Submittals

7 All submittals and notifications to EPA required pur-
8 suant to this Order or any approved proposal under this Order
9 shall be made to:

10 Chris Weden
11 On-Scene Coordinator
12 United States Environmental Protection Agency, Region IX
13 215 Fremont Street
San Francisco, California 94105

14 All approvals and decisions of EPA made regarding the sub-
15 mittals and modifications shall be communicated to Respondents by
16 the On-Scene Coordinator. No informal advice, guidance, suggest-
17 ions, or comments by EPA regarding reports, plans, specifica-
18 tions, schedules, or any other matter will relieve Respondents of
19 their obligation to obtain formal approvals as required by this
20 Order.

21 IX. Access

22 Respondents shall provide employees and authorized represen-
23 tatives of EPA and the State of California with complete access
24 to the Facility at all times. Nothing in this Order limits in any
25 way the rights of access, entry or inspection that EPA or any
26 other agency may have pursuant to law.

27 ///

28 ///

1 X. Endangerment During Implementation

2 In the event that the Director, Hazardous Waste Management
3 Division, EPA Region IX, or his designee determines that any acts
4 or circumstances (whether pursued in implementation of or in non-
5 compliance with this Order) may endanger public health, welfare
6 or the environment, the Director or his designee may order the
7 Respondents to stop further implementation of this Order until
8 the endangerment is abated.

9 XI. Government Liabilities

10 The United States Government and its employees and
11 authorized representatives shall not be liable for any injuries
12 or damages to persons or property resulting from the acts or
13 omissions of any Respondent, its employees, agents, contractors
14 or other representatives, in carrying out activities pursuant to
15 this Order, nor shall the Federal Government be held as a party
16 to any contract entered into by any Respondent, or its employees,
17 agents, contractors or other representatives in carrying out ac-
18 tivities pursuant to this Order.

19 XII. Penalties for Noncompliance

20 1. A willful violation or failure or refusal to comply
21 with this Order, or any portion thereof, may subject Respondents
22 to a civil penalty of up to \$25,000 per each day in which the
23 violation occurs or such failure to comply continues, pursuant to
24 the provisions of Section 106(b)(1) of CERCLA, 42 U.S.C. §
25 9606(b)(1). Failure to comply with this Order without sufficient
26 cause may also subject Respondents to punitive damages in an
27 amount up to three times the total costs incurred by the United
28 States for site response pursuant to Section 107(c)(3) of CERCLA,

1 42 U.S.C. § 9607(c)(3).

2 2. EPA may take over the response action at any time if
3 EPA determines that Respondents are not taking appropriate ac-
4 tion. EPA may order additional actions it deems necessary to
5 protect public health, welfare, or the environment. Respondents
6 shall be liable for all costs incurred by EPA to mitigate the
7 site hazards.

8 XIII. Opportunity to Confer

9 Respondents may request a conference with the Director, Haz-
10 ardous Waste Management Division, EPA Region IX, or his staff to
11 discuss the provisions of this Order. At any conference held
12 pursuant to Respondents' request, Respondents may appear in per-
13 son or by counsel or other representatives for the purpose of
14 presenting any objections, defenses or contentions which Respon-
15 dents may have regarding this Order. If Respondents desire such
16 a conference, Respondents must make a request orally within 24
17 hours of receipt of this Order, and confirm the request in writ-
18 ing immediately. Please make any such request to any of the con-
19 tact persons listed below. A conference does not alter the ef-
20 fective date of the Order.

21 XIV. Parties Bound

22 This Order shall apply to and is binding upon the Respon-
23 dents, their officers, directors, agents, employees, contractors,
24 successors, and assigns.

25 XV. Notice of Intent to Comply

26 Within 24 hours of receipt of this Order, each Respondent
27 shall orally inform EPA of its intent to comply with the terms of
28 this Order, and its plan for coordinating response activities

1 with the other Respondents. The oral notice shall be confirmed
2 within two (2) days by written notice to the Director, Hazardous
3 Waste Management Division, EPA Region IX. Failure to timely
4 notify EPA of the Respondent's intent to fully comply will be
5 construed by EPA as a refusal to comply.

6 XVI. Notice to State

7 Notice of the issuance of this Order has been given to the
8 State of California. EPA will consult with the California
9 Department of Health Services, as appropriate.


10 XVII. Effective Date

11 Notwithstanding any conferences requested pursuant to the
12 provisions of this Order, this Order is effective upon receipt,
13 and all times for performance shall be calculated from that date.

14
15 IT IS SO ORDERED on this 4th day of May, 1989.

16 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

17
18 by:



19 Jeff Zelikson
20 Director, Hazardous Waste Management Division
21 EPA, Region IX
22
23
24
25
26
27
28

Contacts:

Chris Weden, On-Scene Coordinator
Field Operations Branch, T-4-9
U.S. Environmental Protection Agency
215 Fremont Street
San Francisco, CA 94105
(415) 974-8132

N. J. (Teddy) Ryerson
Office of Regional Counsel
U.S. Environmental Protection Agency
215 Fremont Street
San Francisco, CA 94105
(415) 974-0254

Hilary Lauer
Superfund Enforcement Branch, T-4-2
U.S. Environmental Protection Agency
215 Fremont Street
San Francisco, CA 94105
(415) 974-7951